



U.S. Department of Justice

United States Attorney
Southern District of New York

50 Main Street
White Plains, New York 10606

MEMO ENDORSED

November 30, 2023

By ECF and Electronic Mail

The Honorable Cathy Seibel
United States District Court
Southern District of New York
300 Quarropas Street
White Plains, NY 10601

**Re: *United States v. Malcolm Melvin,*
15 Cr. 462 (CS)**

Dear Judge Seibel:

On behalf of itself and defendant Malcolm Melvin, the Government respectfully updates the Court on the status of Mr. Melvin and his underlying state court cases, and requests that the Court adjourn the status conference currently scheduled for Friday, December 1, 2023, at 3:15 p.m. to a date at least 90 days from today.

By way of background, on July 22, 2015, Mr. Melvin pleaded guilty to one count of conspiring to distribute and possess with intent to distribute 28 grams and more of crack cocaine, in violation of 21 U.S.C. §§ 841(b)(1)(B) and 846. On November 13, 2015, the Court sentenced Melvin principally to 70 months of imprisonment, to be followed by five years of supervised release. Mr. Melvin began his term of supervised release on June 28, 2019, and his term of supervised release is set to end on June 27, 2024.

On January 27, 2023, the United States Probation Office ("Probation") petitioned the Court for a summons, alleging that Mr. Melvin had violated the conditions of his supervised release. The Court issued that summons, and Mr. Melvin appeared before the Court on February 14, 2023, where he entered a denial of the specifications of violating the conditions of his supervised release. The parties informed the Court that Mr. Melvin had three DUI cases (Specs. 1-6) that had not yet been resolved and proposed that Mr. Melvin go into inpatient substance abuse treatment. The Court accepted the recommendation and ordered Mr. Melvin to attend the inpatient substance-abuse program at Daytop/Samaritan Village for a period of at least 90 days and scheduled June 2, 2023 as the date of the next status conference.

*Status conference adjourned to:
March 8, 2024
at 2:30 p.m.*

So Ordered.

Cathy Seibel
Cathy Seibel, U.S.D.J.

Dated: 11/30/23

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On May 27, 2023, the Government requested that the June 2, 2023 status conference be adjourned because Mr. Melvin had been doing well. He was scheduled to complete his inpatient program at Samaritan Village on May 30, 2023. (Dkt. No. 29 at 1.) For two of his three DUI cases (Specs. 1-4), he was about to begin participating in the Newburgh City Drug Program and receive credit for his time at Samaritan Village. (Dkt. No. 29 at 2.) And for his remaining DUI case (Specs. 5-6), the Dutchess County ADA indicated that the likely resolution would be a misdemeanor charge with no jail time. Based on those representations, the Court adjourned the status conference to September 1, 2023, and then based on a conflict in the Court's schedule, to September 6, 2023.

On August 30, 2023, the Government requested that the September 6, 2023 status conference be adjourned because Mr. Melvin was continuing to show progress. He had successfully completed his inpatient program at Samaritan Village, progressed to outpatient treatment, and tested negative on all his drug tests; indicated that he would be starting new employment soon at Daytop Samaritan Village-Ellenville; was participating in Newburgh City Drug Court; and had resolved his Town of Dover Court case with a plea to a misdemeanor and a sentence of a \$900 fine, a six-month revocation of his driver's license, and participation in an Impaired Driving Program and Victim's Impact Panel. (Dkt. No. 33 at 2). Based on those representations, the Court adjourned the status conference to December 1, 2023.

The Government reports that since the August 30, 2023 letter, Mr. Melvin continues to do well with his treatment and resolving his DUI cases. Probation and defense counsel have confirmed the following:

- Probation stated that all random drug tests have been negative for any illicit substances and that testing will continue. Probation further confirmed that Mr. Melvin is in compliance with all other conditions of his supervised release.
- Mr. Melvin's outpatient drug counselor at Restorative Management Corporation-Newburgh told Probation that Mr. Melvin is doing well and is in the last phase of treatment (*i.e.*, one group and one individual session per week). Given Mr. Melvin's progress, his counselor indicated that she was considering recommending Mr. Melvin for completion of drug treatment after the holidays. Probation stated that it will advise her to consult with the Newburgh City Drug Court prior to taking such action and to ensure compliance with the requirements of the Drug Court Program.
- Probation stated that although the job at Samaritan Village did not materialize, Mr. Melvin took another job and began fulltime employment at an Amazon warehouse in New Windsor starting on October 20, 2023. After speaking to Mr. Melvin, defense counsel learned that Mr. Melvin subsequently

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received a better offer to be a service manager at a restaurant in Woodbury Commons Mall and is currently working there.

- With respect to Mr. Melvin's two DUI cases in Newburgh (Specs. 1-4), Judge Trachte stated to Probation that Mr. Melvin appeared for his November 15, 2023 court date and is scheduled to appear again on December 6, 2023. Furthermore, Mr. Melvin is continuing to progress through Phase 4 of the Drug Court Program, and if all goes well, is scheduled to complete Phase 4 by the end of the year or right after the new year. Once Mr. Melvin enters the 5th and final phase, he is scheduled to complete the Drug Court Program in or about March or early April 2024.
- With respect to Mr. Melvin's remaining DUI (Specs. 5-6), Mr. Melvin is in compliance with the conditions of the resolution to that case. Specifically,
 - Defense counsel, who spoke to Mr. Melvin, stated that because the Town of Dover Court does not accept installment payments, the payment of the court fine has been adjourned to December and will ask for another adjournment until he has saved enough money to make the full payment at one time. Probation has confirmed with the Town of Dover Court clerk that Mr. Melvin's \$900 fine is currently unpaid and due on December 11, 2023.
 - Based on certificates of completion provided by Mr. Melvin, Probation has confirmed that he has completed both the Victim Impact Panel and the Impaired Driving Program.

Given that Mr. Melvin is doing well and that the underlying court cases have not yet been fully resolved, the parties and Probation propose that the Court adjourn the December 1, 2023 status conference to a date 90 days from now to allow the state court cases to resolve and allow Mr. Melvin time to demonstrate his hopefully continuing progress.

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Please feel free to contact me with any questions.

Respectfully,

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